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ABSTRACT

This paper focuses on the role that job analysis plays under the Americans with Disabilities Act (ADA). The most obvious use of job analysis data is in defining the essential functions of each job. The job analysis technique used should: list the functions of the job, define which functions are essential rather than marginal, and offer proof of essentiality. A quantitative approach to job analysis distills information into objective, empirical data that are amenable to analysis across positions, jobs, or job families. In a qualitative approach, narrative descriptions are obtained from public sources, commercial sources, or written by personnel administrators or employees. It is doubtful that any qualitative technique would produce the kind of information necessary for compliance with ADA. The job analysis should define the functions of the job in such a manner so as not to confuse "what" is accomplished with "how" it is typically accomplished. The job analysis should also examine work schedules; machines, equipment, or devices used; and the work environment or facilities. Not all job analysis techniques are equally suited to ADA requirements for job information. The cost of choosing the wrong technique could be substantial, ranging from failure to establish proof of essentiality to obfuscation of means of reasonable accommodation. There is probably no one job analysis technique that can meet all the requirements of ADA. (JDD)

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The Americans With Disabilities Act:

Using Job Analysis to Meet New Challenges

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The Americans With Disabilities Act (ADA) will impose some substantial changes in the way human resource management is organized and practiced. Like the Civil Rights Act of 1964, ADA was signed into law to combat discrimination -- discrimination against individuals with disabilities. Although practiced perhaps without the rancor that accompanied past discrimination against people of different races, color, religion, national origin, and sex, discrimination against individuals with disabilities has had real consequences and economic costs for these people. One of the most damaging costs has been employment barriers; before ADA, it was both legal and acceptable to use the nature of an individual's disability in denying employment opportunities. Title I of the ADA alters this practice.

Specifically, Title I prohibits employers from discriminating against qualified individuals with disabilities in regard to job applications, hiring, advancement, discharge, compensation, training, or other terms, conditions, or privileges of employment. This equal employment opportunity law is intended to "level the playing field" for individuals with disabilities; to allow these individuals to compete for jobs based on the same performance standards and requirements expected of workers who are not disabled. When a qualified individual's disability creates a barrier to employment, employers are further required to consider whether reasonable accommodation could remove the barrier. The Equal Employment Opportunity Commission (EEOC) guidelines on ADA (20 CFR Part 1630) clarify that the determination of (a) whether a disabled individual is qualified for a job, and (b) whether and what form of reasonable accommodation would suffice to remove barriers to employment for qualified individuals with disabilities, must be made on a case-by-case basis. Central to this case-by-case investigation is accurate information about both the job and the job applicant.

The focus of this symposium is on the role that job analysis plays under ADA. Job analysis is the process used to gather information about the job. In describing the role this process plays under ADA, an essential point that must be made is that not all job analysis techniques are equally suited to ADA requirements for job information. The cost of failing to recognize the differences between job analysis approaches, or of choosing the wrong technique, could be substantial, ranging from failure to establish proof of essentiality to obfuscation of means of reasonable accommodation. Employers and placement professionals not conversant with the basic definition, philosophies, and approaches of job analysis are most at risk for choosing an insufficient or inappropriate job analysis technique for the purposes of placing individuals with disabilities in jobs.

After discussing the role of job analysis under ADA, describing basic differences between job analysis approaches, and highlighting what to look for in techniques for compliance with ADA, we will listen to the presentations of two new job analysis instruments. The first instrument, The Common-Metric Questionnaire (CMQ; published by The Psychological Corporation, Harcourt Brace Jovanovich, Inc.), developed and described by Robert J. Harvey, Ph.D., I think will prove most useful in identifying the essential functions of jobs and establishing the job-relatedness of selection criteria. The second instrument is the Work Inventory for Persons with Severe disAbilities (WIPSd), described by one of its developers, Dr. Lee Friedman. The WIPSd is designed to collect information that will be most useful in the determination of accommodation phase.

To begin with the role of job analysis under ADA, consider the basic steps the prudent employer will need to take to prepare for ADA. These steps include:

1) Define the essential functions of each job,
2) Define the "prerequisites," or knowledge, skills, abilities, and other characteristics (KSAO's) required to perform each job,
3) Make sure all selection criteria are job-related and consistent with business necessity,
4) Make sure any selection test given measures one or more of these job-related KSAO's,
5) Be able to determine what accommodations may be made for qualified individuals with disabilities, and
6) Be able to determine whether such accommodations would impose an undue hardship on the employer.

The most obvious use of job analysis data is in the first step, defining the essential functions, or "fundamental job duties," of each job. Distinct from the marginal functions of a job, job functions are considered essential if they constitute the primary reason the job exists, if there are a limited number of employees among whom the performance of that function can be distributed, or if the function is so highly specialized that employees are hired primarily for their expertise or ability to perform that function. In terms of evidence of essentiality, written job descriptions that are prepared before advertising or interviewing applicants are considered evidence of essential functions and of employer's intent. Written job descriptions may be considered evidence, however, the statute does not require employers to develop and maintain job descriptions. As noted in the EEOC regulations, other evidence of essentiality includes:

* The employer's judgment,
* The amount of time spent performing the function,
* The consequences of not requiring incumbents to perform the function,
* The work experience of past incumbents in the job,
* The current work experience of incumbents in similar jobs, and/or
* The terms of a collective bargaining agreement.

From this list, we can conclude that the job analysis technique used should:

* List the functions of the job,
* Define which functions are essential as opposed to marginal, and
* Offer proof of essentiality by:
  * Elaborating an "employer's judgment" argument for essentiality,
  * Collecting time spent ratings (this is relevant but not determinative to a case of essentiality),
  * Collecting consequence of inadequate or nonperformance ratings,
  * Collecting judgment of essentiality ratings, and
  * Surveying employees directly, including employees who currently hold or previously held the job, or hold similar jobs.

Given this list of requirements, we have essentially described the quantitative approach to job analysis. Quantitative techniques distill information about jobs into objective, empirical data that is amenable to analysis across positions, jobs, or whole job families. The most recognizable of these approaches is the task inventory; lists of tasks are written, paired with likert-type rating scales, administered to employees and supervisors, and used to produce an inventory of the functions performed. These functions are typically sorted by time-spent and importance or criticality. The standardized questionnaire is also an example of the quantitative approach to job analysis.

I would venture to guess that only the more "sophisticated" organizations use the quantitative approach to job analysis; most probably use the qualitative approach. In the qualitative approach, narrative descriptions are obtained from public sources, purchased from commercial sources, or written by personnel administrators or employees themselves. These descriptions tend to differ greatly in terms of the amount of information, the type of information, and the style of presentation. Many are simply elaborations of job titles; the better descriptions produced by the qualitative approach are supplemented with behavioral critical incident information. In qualitative techniques, no numerical ratings are produced, and quantitative comparisons between jobs is not possible. Given the list of requirements we just mentioned, it is doubtful that any qualitative technique would produce the kind of information necessary for compliance with ADA. At best, this approach may help an employer elaborate an argument for essentiality, but it is unlikely that it would offer proof of essentiality.

As suggested in The Americans With Disabilities Act: Making the ADA Work For You (1990), essential functions must be defined in such a way as to allow an assessment of applicant qualifications (steps 2 - 4) and reasonable accommodations (step 5). Hence, to add to the list of requirements for a job analysis technique under ADA, the technique should:

* Produce results that support the definition of KSAO's (step 2),
* Be capable of establishing the job-relatedness of selection criteria and selection tests (steps 3 and 4),
* Produce results relevant to the determination of accommodations (step 5).

There are many quantitative job analysis techniques that purport not only to support the definition of KSAO's, but to actually identify the KSAO's along with the functions of jobs analyzed. These techniques do not make a distinction between rating a task behavior and rating a KSAO. For example, "Do you prepare a budget report every quarter," is rated along with questions such as, "Do you use critical thinking ability in your job?" These questions are essentially different; the former is concerned with a recollection about an objectively-verifiable behavior, whereas the latter entails an inference about a non-observable, hypothetical construct. This point gets at the heart of a fundamental disagreement in the job analysis literature: the distinction between job analysis and job specifications. The field in general has not recognized the need to make such a distinction, as evidenced in the Standards for Educational and Psychological Testing (1985) or the Principles for the Validation and Use of Personnel Selection Procedures (1987). The Uniform Guidelines on Employee Selection Procedures (1978) does make this distinction. As Harvey detailed (1990), job analysis is the collection of data describing observable job behaviors (including what is accomplished and what technologies are employed) and verifiable characteristics of the work environment. In

contrast, job specifications describe people in terms of characteristics that are presumably necessary for successful job performance. The unit of analysis is different, the judgmental processes utilized in analyzing the presence of a behavior vs. a KSAO is different, and the validation strategy is likely to be different.

Under ADA, confusing a job analysis technique with a job specification technique has several potential costs:

* Failure to distinguish between a function and a KSAO,
* Failure to establish proof of essentiality,
* Failure to support the essentiality and job-relatedness of KSAO's, and
* Obfuscation of means of reasonable accommodation.

For example, an analysis technique that does not recognize the fundamental difference between assessing work behaviors and KSAO's may describe the job of a package carrier as "Carries up to 50 pounds," and "Requires the ability to listen, remember, and follow oral directions." In contrast, a behaviorally-based task analysis would describe the same activities as, "Transport 50 pound boxes from truck to customer receiving area," "Takes package delivery orders from customers," and "Determines route and delivers packages." With the job analysis terminology, the employer is in a better position to realize that the essential function is not how the boxes are transported or how information on package orders and destination is received and followed. Rather, the essential function is that the transport of boxes takes place, perhaps by providing a roll cart to a worker who is unable to carry the boxes. The essential function is that the information on orders and destinations is received and followed, but not necessarily by listening, remembering, and following oral directions, but perhaps even by reading lips and reading maps.

To conclude this point, the distinction between a job analysis and a job specification analysis has important implications for ADA. One should recognize that many job analysis techniques do not make this distinction, and realize that a confusion of the two could damage one's ability to comply with ADA.

In terms of accommodation, I have already intimated that a job analysis technique should define the functions of the job in such a manner so as not to confuse what is accomplished with how it is typically accomplished. In addition, it is at the point of determining possible accommodations that it will be necessary not just to have a list of the essential functions of the job, but also of the marginal functions. Qualified individuals with disabilities capable of performing essential functions without accommodation may require accommodation for the performance of marginal functions. This information is typically collected with quantitative job analysis techniques; the standardized questionnaire, for example, is designed to describe all of the work activities in any job and supplement this information with data on frequency or criticality. Collection of information on marginal functions should not be a problem with these types of techniques. In contrast, qualitative techniques, which tend to summarize the highlights of the job, are unlikely to contain adequate information on marginal functions.

In addition to a listing of job functions, both essential and marginal information about work schedules, machines, equipment, or devices used, and the work environment or facilities is required to determine accommodations. As the EEOC regulations detail, accommodations

may include modifying work schedules, restructuring the job, modifying the technologies used, or modifying the facilities. Most standardized job analysis questionnaires collect this type of information, and will, in a general sense, be useful in highlighting possible areas for accommodation.

In sum, there is probably no one job analysis technique that can meet all the requirements of ADA. As we have found for other human resource functions, the best approach to collecting job information for ADA will probably be to use a few carefully selected techniques. Quantitative job analysis techniques that focus on observable behaviors -- on the 'what' is accomplished instead of the 'how' -- that survey employees, collect time spent and criticality ratings, and that describe the technologies used and the working conditions, are well suited to offering proof of essentiality, serving as the basis for KSAO definition, and identifying general areas for accommodation. To answer specific accommodation questions, one will probably need a specially constructed job analysis instrument or to conduct another type of analysis.

In closing, I think it is interesting to point out that the list of steps recommended to comply with ADA assumes that employers have discretely, logically defined jobs in their organizational structure. Jobs for which one can identify essential functions. This is not the case in organizations with fluid job boundaries, where, for example, workers are paid for their knowledge or expertise instead of for what they do. For instance, W.L. Gore & Associates, an organization with over 5,000 employees and close to $1 billion in sales, prides itself as a company with virtually no job titles (Shipper & Manz, 1992). This firm has a President, a Secretary-Treasurer, and 5,000 Associates. It is difficult to predict how this flattest of organization structures will be received under ADA. Other organizations adhere to a traditional hierarchical structure with layers of jobs, but have virtually as many job titles as employees. The job titles reflect little or nothing about the similarities and differences in work activities between positions. If compliance with ADA requires some degree of adherence to a more traditional definition of jobs, job analysis will not only play a role in determining the essential functions of jobs, supporting the definition of KSAO's, and highlighting areas and needs for accommodation. Job analysis will also be necessary for job classification, that is, for categorizing positions into jobs and jobs into job families according to similarities and differences in work functions. Such a role will probably call for a quantitative technique, capable of ordering positions and jobs along common work dimensions.

References

American Educational Research Association, American Psychological Association, & National Council on Measurement in Education (1985). Standards for educational and psychological testing. Washington, DC: American Psychological Association.

Americans With Disabilities Act (1990). Federal Register, 56, 35726-35756.

Equal Employment Opportunity for Individuals With Disabilities (1991). Federal Register, 56(144).

Harvey, R.J. (1990). Job Analysis. In M.D. Dunnette & L.M. Hough (Eds.), Handbook of Industrial & Organizational Psychology (2nd ed., Vol. 2). Palo Alto, CA: Consulting Psychologists Press.

Lotito, M.J., Jones, C., Pimentel, R., Baker, L. (1990). The Americans with Disabilties Act: making the ADA work for you. Milt Wright & Associates, Inc., Jackson, Lewis, Schnitzler & Krupman.

Shipper, F., & Manz, C.C. (1992). Employee self-management withoug formally designated teams: An alternate road to empowerment. Organizational Dynamics, Winter, 48 - 61.

Society for Industrial and Organizational Psychology, Inc. (1987). Principles for the validation and use of personnel selection procedures (Third Edition). College Park, MD: Author.

Uniform Guidelines on Employee Selection Procedures. (1978). Federal Register, 43, 38290-38315.